

FILED**APR 24 2014****SECRETARY, BOARD OF
OIL, GAS & MINING****BEFORE THE BOARD OF OIL, GAS AND MINING****DEPARTMENT OF NATURAL RESOURCES****STATE OF UTAH**

**IN THE MATTER OF THE REQUEST)
FOR AGENCY ACTION OF WHITING)
OIL AND GAS CORPORATION FOR AN)
ORDER AUTHORIZING THE VENTING)
OR FLARING OF GAS FROM THE)
WELLINGTON FLATS 15-11-18E WELL)
LOCATED IN SECTION 18, TOWNSHIP)
15 SOUTH, RANGE 11 EAST, S.L.M., IN)
THE WELLINGTON FLATS AREA OF)
CARBON COUNTY, UTAH)
)**

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

**Docket No. 2014-009
Cause No. 280-03**

This Cause came on regularly for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, February 26, 2014, at the hour of 9:00 a.m. in the Auditorium of the Department of Natural Resources, 1594 West North Temple, Salt Lake City, Utah. The following Board members were present at the February 26, 2014 hearing: Ruland J. Gill, Jr., Chairman; Carl F. Kendell; Chris D. Hansen; Michael R. Brown; Susan S. Davis; and Gordon L. Moon. John Roberts, Associate Director—Oil and Gas; Brad Hill, Oil and Gas Permitting Manager; Dustin Doucet, Petroleum Engineer; and Clinton Dworshak, Compliance and Public Outreach Manager, were present for the Division of Oil, Gas and Mining (the "Division"). The Board was represented by Douglas J. Crapo, Assistant Attorney General, and the Division was represented by Kassidy J. Wallin, Assistant Attorney General.

The petitioner, Whiting Oil and Gas Corporation ("Whiting") was represented by Thomas W. Clawson of Van Cott, Bagley, Cornwall & McCarthy, and Paul Joeckel, Whiting's Landman, and Ralph Nelms, Whiting's Petroleum Engineer, testified on behalf of the petitioner.

The Board recognized Mr. Nelms as an expert petroleum engineer for the purposes of this Cause.

At the hearing, the Division expressed its support for granting Whiting's Request for Agency Action filed in this Cause (the "Request"). No other person or party filed a response to Whiting's Request and no other person or party appeared at or participated in the hearing.

The Board, having fully considered the testimony adduced and exhibits received into evidence at the February 26, 2014 hearing, being fully advised, and good cause appearing, hereby makes the following findings of fact, conclusions of law, and order in this Cause:

FINDINGS OF FACT

1. Notices of the time, place, and purposes of the Board's regularly scheduled February 26, 2014 hearing were mailed to all interested parties by first-class mail, postage prepaid, and were duly published in the Salt Lake Tribune, Deseret Morning News, Sun Advocate, and Emery County Progress pursuant to the requirements of Rule R641-106-100, Utah Administrative Code ("U.A.C."). Copies of Whiting's Request were mailed to all interested parties pursuant to Rule R641-104-135, U.A.C.

2. No written responses, protests, or objections to Whiting's Request were filed with or received by the Division or the Board, and no persons or parties appeared at, or participated in, the February 26, 2014 hearing in opposition to Whiting's Request in this matter.

3. Whiting is a Delaware corporation in good standing, having its principal place of business in Denver, Colorado. Whiting is qualified to and is doing business in Utah.

4. The Wellington Flats #15-11-18E Well (the "Well") is a horizontal well completed in the Moenkopi formation, whose surface location is situated in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, Township 15 South, Range 11 East, S.L.M., in Carbon County, Utah, and whose

bottom hole location (terminal lateral) is situated in the SE¼NE¼ of that section. Whiting is the Operator of the Well.

5. The Well is located on State of Utah Oil, Gas and Hydrocarbon Lease No. ML-49795, which was given by the Utah School and Institutional Trust Lands Administration dated effective June 1, 2005 (the "Lease").

6. The Well and Lease are currently subject to the Board's well-location and siting rules governing horizontal wells, which establish a temporary 640-acre spacing unit consisting of all of subject Section 18 for the purposes of determining well density and location.

7. The Moenkopi formation in the vicinity of the Well is sparsely drilled and its potential as a hydrocarbon reservoir is relatively unexplored. Based on the horizontal drilling and completion techniques Whiting employed to drill the Well, the Board recognizes that the Well is an exploratory wildcat well.

8. The Well was spud on November 10, 2012, as a vertical Moenkopi well and was converted to a horizontal well in February 2013. Whiting completed the Well in the Moenkopi formation in April 2013.

9. The Well was production flow tested from April 18, 2013, to June 6, 2013, a period of 56 days, after which the Well was shut in. The Well averaged about 46.5 BOPD and 349 MCFPD. However, during the first 38 days of production testing, the Well's production was erratic, making such average production rates unreliable. The Well did not stabilize until the last 18 days of testing. Whiting's evidence established that the data derived from only 18 days of stabilized production was insufficient to reliably assess the drainage area of the Well in the Moenkopi reservoir and to accurately evaluate the economic viability of the Well and the reservoir.

10. Gas composition analyses show that the Well is producing methane gas along with significant volumes of carbon dioxide (CO₂) and Nitrogen (N₂). The treatment, removal, and blending of such inert components in the gas-stream can significantly affect the economic viability of developing the Well and the Moenkopi reservoir in the vicinity of the Well. Additional production testing is warranted to gather additional information regarding the composition of the associated gas being produced from the Well.

11. Whiting's evidence showed that the high volume gas production from the Well is anomalous and that additional production and reservoir testing is required to assess the drainage area of the Well and whether the source of the gas is predominately from the matrix or from natural fractures.

12. Whiting's evidence also established that it may be necessary to conduct up to six months of additional reservoir testing to establish a sufficient production history to evaluate the Well and to assess the oil and gas reserves for the Well and the Moenkopi reservoir.

13. Whiting's evidence adduced and received at the February 26, 2014 hearing established that there is no economically reasonable alternative to temporarily flaring the gas produced from the Well during the additional production testing of the Well as requested by Whiting.

14. Based on the evidence provided, the Board has determined that temporarily flaring the associated gas from the Well at the rates requested is justified under the circumstances.

15. The Board voted unanimously to approve Whiting's Request, conditioned upon Whiting periodically updating the Division regarding the requested additional production testing.

CONCLUSIONS OF LAW

1. Due and regular notice of the time, place, and purposes of the Board's regularly scheduled February 26, 2014 hearing was given to all interested parties in the form and manner and within the time required by law and the Rules and Regulations of the Board. Due and regular notice of the filing of the Request was given to all interested parties in the form and manner and within the time required by law and the Rules and Regulations of the Board.

2. The Board has jurisdiction of the parties and subject matter of this Request pursuant to Section 40-6-5(3)(f) of the Utah Code and Rules R649-3-19 and R649-3-20, U.A.C., and has the power and authority to make and promulgate the order herein set forth.

3. Whiting has satisfied the requirements set forth in Rule R649-3-20(5), U.A.C., for granting its Request for temporary flaring, with a termination date six (6) months after the date the additional production testing of the Well commences.

4. The terms and conditions of flaring beyond the limits authorized under Rule R649-3-20(1.1), U.A.C., for the Well are fair, just, and reasonable under the circumstances and will not result in waste.

5. Whiting has sustained its burden of proof, demonstrated good cause, and satisfied all legal requirements for granting the Request as ordered below.

6. Establishing a temporary spacing unit under Rule R649-3-2(6), U.A.C., is limited to the purposes of determining well density and location, and does not establish a drilling unit as provided in Section 40-6-6 of the Utah Code, nor does it provide a basis for pooling the interests therein.

ORDER

Based upon the Request, the testimony and evidence submitted and entered at the

February 26, 2014 hearing, and the findings of fact and conclusions of law as stated above, it is therefore ordered that:

1. Whiting's Request in this Cause is granted.
2. Whiting is hereby authorized to temporarily flare the associated gas produced from the Well for six (6) months after the commencement of the additional production testing of the Well, as requested. Whiting shall notify the Division in writing when "commencement of the additional production testing of the Well" has occurred.
3. Whiting shall provide periodic (monthly) updates to the Division of the results and progress of the additional production testing of the Well.
4. Pursuant to Utah Administrative Code R641 and Utah Code Ann. § 63-46b-6 to -10 (1953, as amended), the Board has considered and decided this matter as a formal adjudication.
5. This Findings of Fact, Conclusion of Law and Order ("Order") is based exclusively on evidence of record in the adjudicative proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, all as required by the Utah Administrative Procedures Act, Utah Code Ann. § 63-46b-10 and Utah Administrative Code R641-109.
6. Notice re Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. § 63-46b-10(e) to -10(g) (1953, as amended), the Board hereby notifies all parties in interest that they have the right to seek judicial review of this final Board Order in this formal adjudication by filing a timely appeal with the Utah Supreme Court within 30 days after the date that this Order is issued. Utah Code Ann. § 63-46b-14(3)(a) and -16 (1953, as amended). As an alternative to seeking immediate judicial

review, and not as a prerequisite to seeking judicial review, the Board also hereby notifies parties that they may elect to request that the Board reconsider this Order, which constitutes a final agency action of the Board. Utah Code Ann. § 63-46b-13, entitled, “Agency review - Reconsideration,” states:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63-46b-12 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

Id. The Board also hereby notifies the parties that Utah Administrative Code R641-110-100, which is part of a group of Board rules entitled, “Rehearing and Modification of Existing Orders,” states:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of that month.

Id. See Utah Administrative Code R641-110-200 for the required contents of a petition for rehearing. If there is any conflict between the deadline in Utah Code Ann § 63-46b-13 (1953, as amended) and the deadline in Utah Administrative Code R641-110-100 for moving to rehear this matter, the Board hereby rules that the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the party may

still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

7. The Board retains continuing jurisdiction over all the parties and over the subject matter of this Cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this Order by the Utah Supreme Court.

8. For all purposes, the Chairman's signature on a faxed copy of this Order shall be deemed the equivalent of a signed original.

ISSUED this 24 day of April, 2014.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING

By 
Ruland J. Gill, Jr., Chairman

4839-5020-7769, v. 1

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** for Docket No. 2014-009, Cause No. 280-03, to be mailed by Email or via First Class Mail with postage prepaid, this 24th day of April, 2014, to the following:

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